

US BANKRUPTCY COURT
FILED
NEWARK, NJ

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JAMES J. WALSH

Form 16C
12/94

**FORM 16C. CAPTION OF COMPLAINT IN ADVERSARY PROCEEDING
FILED BY A DEBTOR**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF**

In re	Virginia Lewis)	Case No.	11-17815	RG
	<i>Debtor</i>)			
	398 Hillside Avenue, Orange, NJ 07050)		7	
Address)	Chapter		
)			
	190-32-5853)			
Social Security No(s).)			
Employer's Tax Identification No(s).	[if any])			
)			
	Virginia Lewis)			
	<i>Plaintiff</i>)			
)			
Sallie Mae ^{v.})	Adv. Proc. No.		
	<i>Defendant</i>)			

COMPLAINT

COMPLAINT TO DETERMINE THE DISCHARGEABILITY OF A STUDENT LOAN

1. Plaintiff/Debtor filed her bankruptcy petition *pro se* under Chapter 7 of the Bankruptcy Code (Title 11 of the United States Code) on March 15, 2011. Therefore, this Court has jurisdiction over this action per Title 28 U.S.C. §1334(e). This proceeding is a core proceeding.
2. One of the unsecured debts owing by the Plaintiff/Debtor and listed on Schedule F is a student loan owing to Defendant (the "Loan").
3. Defendant is a major provider of educational student loans in the United States.
4. Plaintiff/Debtor co-signed on the Loan whereby the debt was incurred to pay for the educational expenses of Plaintiff's son.
5. Plaintiff/Debtor's son is at present living in a homeless shelter. He has not made any payments on the Loan.
6. Plaintiff/Debtor's income is a little more than ONE THIRD of the NJ median income per the Chapter 7 means test.
7. Plaintiff/Debtor is retired and living on a federal pension.
8. Fact 6 (above) satisfies the first prong of the three-prong "undue hardship" test established by *Brunner v. New York State Higher Education Services Corp.*, 831 F.2d 395 (2nd Cir. 1987.) (the "Brunner Test") One third of the state's median income does not support even a minimal standard of living if Plaintiff/Debtor is forced to repay the Loan.
9. The second prong of the Brunner Test is satisfied in that Plaintiff/Debtor's income is unlikely to go up. Federal pensions are notorious for not tracking increased cost of living. Plaintiff/Debtor is unlikely to work due to: 1-age (70 years old) and 2-health (diabetes, bone spurs, hypertension, herniated discs and a congenital visual disability.)
10. The third prong of the Brunner Test is satisfied in that for more than a year, Plaintiff/Debtor has in good faith paid a reduced amount per month to the Defendant. She sacrificed her own needs (including for food) to do so.

WHEREFORE, Plaintiff/Debtor prays that the Court enter an Order declaring the Loan dischargeable in this bankruptcy case.

6/15, 2011

x Virginia Lewis

B104 (FORM 104) (08/07)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS <div style="font-size: 1.2em; font-family: cursive;">Virginia Lewis</div>	DEFENDANTS <div style="font-size: 1.2em; font-family: cursive;">Gallie Mae</div>	
ATTORNEYS (Firm Name, Address, and Telephone No.) <div style="font-size: 1.2em; font-family: cursive;">filing pro se</div>	ATTORNEYS (If Known) <div style="font-size: 1.2em; font-family: cursive;">[Signature]</div>	
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) <div style="font-size: 1.2em; font-family: cursive;">Complaint/Proceeding to Determine Dischargeability of a student loan</div>		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: center;">(continued next column)</div>	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input checked="" type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input type="checkbox"/> Check if this case involves a substantive issue of state law <input type="checkbox"/> Check if a jury trial is demanded in complaint	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23 Demand \$ <div style="font-size: 1.2em; font-family: cursive;">discharge of \$30,221 student loan</div>	
Other Relief Sought		

US BANKRUPTCY COURT
 JAMES J. HILL JR.
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